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Dimitris Stamatopoulos

In the *Čarkoven Vestnik* (Ecclesiastical Journal), an official publication of the Holy Synod of the Bulgarian Exarchate first circulated in Sofia in 1900, we read the following in an article entitled "Education and Family":

> The Christian family is a small state, perhaps the best and most perfect, whose members are all bound together with love and mutual obligations. The head of the family is the father, and the soul of the family is the mother. The father and mother have the same authority […] and the children submit without protest to this parental authority (*vlast*), or, more accurately, display piety towards parental authority, care, love, and self-sacrifice.[1]

The author of the article is not being original here. Similar approaches to the contribution of family to the development of civil morality (as well as the innate division of labor within the family) can be found in other similar ecclesiastical publications of the period, ranging from the *Ἀνάπλασις* (= Regeneration) of Athens to the *Ἐκκλησιαστικὴ Ἀλήθεια* (= Ecclesiastical Truth), the official mouthpiece of the Patriarchate of Constantinople. These were publications from which the *Čarkoven Vestnik* frequently borrowed articles and themes and which sometimes expressed similar viewpoints. However, the use of this "metaphor", in which the family is portrayed as a state – especially through the lens of the representatives of the Bulgarian Orthodox Church, which was particularly influenced by the spirit of secularization due to its long-term conflict with the

[1] *Čarkoven Vestnik*, Volume 27, Issue 1 (5 October 1900).

Patriarchate of Constantinople – deserves closer attention. And the question that must be asked here is: Under which circumstances may a representative of an Orthodox Church in the Balkans identify the private with the public sphere, or, to be more precise, obscure the difference between them? Of course, this question can only be answered if we examine the relations that the Orthodox Church in the Balkans had with the state and with what we know as "civil society".

Two Paths to Secularization – Two Different Perceptions of Civil Society

The concept of "civil society" has become central to modern political discussions, especially after the collapse of the Soviet Union and the regimes of "state socialism".[2] This concept, which had been mostly marginalized after Antonio Gramsci's final attempt to revive Marxist theory in the 20th century,[3] returned to the foreground due to the need to differentiate the procedures that create the political sphere in Western Europe and the corresponding procedures at work in Eastern Europe, and particularly the theoretical undertaking of compiling a normative model based on which the latter would follow in the footsteps of the former (not unlike a revival of the "theory of stages").[4]

Therefore, to answer the above question, we may need to depart from the framework defined by the modern discussion on "civil society", treating this discussion as an opportunity to attempt not so much a historical survey of philosophical ideas, but a historical approach to normative models dealing with

[2] See Chris Hann, "Civil Society at the Grassroots: A Reactionary View", in Paul G. Lewis (ed.), *Democracy and Civil Society in Eastern Europe*, London: St Martin's Press, 1992, 152–165.
[3] See Norberto Bobbio, "Gramsci and the Concept of Civil Society", in John Keane (ed.), *Civil Society and the State,* London: Verso, 1988, 73–100.
[4] A satisfactory review of the relative discussion can be found in Jean L. Cohen and Andrew Arato, *Civil Society and Political Theory,* Cambridge, MA: MIT Press, 1992.

the thorny question of secularization, and therefore with the relations between church, state, and civil society.[5]

Two differing theoretical approaches were formulated on the meaning of secularization in modern civic states, namely on what place these states should reserve for the church (and representatives of other religions). These normative models are the direct result of two divergent attitudes concerning the relations between state and civil society. The theoretical position that the church must submit to the state reflects a view in which civil society and state are interdependent; the theoretical position that the church must be marginalized into the private sphere is accompanied by the reasoning that the latter is not defined exclusively as private interest. Rather, it is redefined by the intermediate sphere between state and family, known as civil society, where it becomes once again possible to defend civil collectivity equally against the dangers of state paternalism and pre-modern vestiges. The former theoretical line flows from G.W.F. Hegel's *Elements of the Philosophy of Right* (1820) (through the radical Marxist criticism of Gramsci), while the latter goes back to Alexis de Tocqueville's *Democracy in America* (vols. 1-2, 1835 and 1840). At this level, criticism was levied either against the fetishizing of the political, against modern politics that separate the political subject from the social requisites for its creation, or against the governmental nature of non-governmental organizations, with all that implies for the autonomy of a civil society. The modern predominance of neo-Tocquevillean approaches to the question of civil society, seen in the works of authors such as Ernest Gellner[6] and Robert D. Putnam[7], can be easily explained, and we need not dwell on it here.

However, the theoretical roots of the confrontation between these two approaches, which took place in the 19th century, are already discernible in the

[5] See Nancy Gina Bermeo and Philip G. Nord (eds.) *Civil Society before Democracy: Lessons from Nineteenth Century Europe*, Lanham, MD: Rowman & Littlefield Publishers, 2000.
[6] See Ernest Gellner, *Conditions of Liberty: Civil Society and its Rivals*, London: Penguin, 1996.
[7] See Robert D. Putnam (with Robert Leonardi and Raffaella Y. Nonetti), *Making Democracy Work: Civic Traditions in Modern Italy,* Princeton, NJ: Princeton University Press, 1993.

works of the great European Enlightenment authors of the 17th century. It is important to go back to this period to find the root of the problem at the end of the Religious Wars, rather than to the 19th century, when secularization was already a common ground for both liberals and socialists. It is my thesis that these theoretical opinions may be traced, respectively, to the works of Thomas Hobbes and John Locke, and their usefulness in this debate lies in the fact that both thinkers considered it their duty to take a stance on the issue of defining the church.

Each of these two thinkers wrote a work in a (self-imposed) exile. Hobbes wrote his *Leviathan* in Paris during the English Civil War (or, if you will, the early phase of the English Revolution, 1642–47); the book was eventually published in 1651. Locke wrote his *Epistola de tolerantia* in Holland just before the outbreak of the "Glorious Revolution" (1688–89); more precisely, it was written in 1685 and published anonymously at Gouda, by Locke's friends abroad, in 1689. These two works do not merely express different opinions on how to approach the civic state (whether as an entity which collects the power of mutually threatened subjects, or as a protector of threatened civil rights); they also offer differing definitions of the "church". In *Leviathan*, Hobbes defined the church as "civil Commonwealth consisting of Christian men" believing that its right to assembly is subject to the discretion of the ruler.[8] Hobbes noted that each church (and especially the Roman Catholic Church, which threatened the jurisdiction of kings in the states where it operated), being at once both a "Christian" and a "civic" society, leads us to see things double: it renders us "inebriated",[9] unable to

[8] "According to this sense, I define a Church to be: a company of men professing Christian religion, united in the person of one sovereign; at whose command they ought to assemble, and without whose authority they ought not to assemble. And because in all Commonwealths that assembly which is without warrant from the civil sovereign is unlawful; that Church also which is assembled in any Commonwealth that hath forbidden them to assemble is an unlawful assembly." See Thomas Hobbes, *Leviathan, or, The Matter, Forme and Power of a Commonwealth, Ecclesiasticall and Civil*, 1651, Chapter 39.

[9] "Temporal and spiritual government are but two words brought into the world to make men see double and mistake their lawful sovereign." (Ibid.).

distinguish the same individuals in the dual attributes of believer and subject. Therefore, the only solution is, on the one hand, the (external) submission of the church to the ruler, and on the other hand, the (internal) submission of the believer to the subject. About forty years later, Locke's definition of the church would clash with that of Hobbes's. For Locke, the church is not an organism, which requires the ruler's approval in order to function, but a "free and voluntarily organized" society ("Dico esse [ecclesiam, D.S.] societatem liberam et voluntariam."[10]). The ruler has the right to intervene in the church's functions, only when the latter seem to threaten the world of civil liberties.

Thus, we see that the confrontation between Hobbes and Locke draws out not only a different approach to the church, clearly circumscribed by the definition of the civic state given by the two philosophers; rather, the Lockean definition also gives us, for the very first time, the definition of a collectivity, which might be argued to establish the governing rules for regulating the main type of collectivity that theoretically comprises the civil society: a free and voluntary society.

Is it possible, then, that the definition of the church provides the theoretical foundation for the definition of civil society? Could it be that it is the former, as a "negative paradigm", which defines the latter as a "future project", and not the reverse? Could it be, in other words, that the meaning of "church" is not dependent on the meaning of "civil society", but – to view the problem historically, keeping in mind the internal development of various civil society concepts in the modern age –, that civil society was defined (not created, but solely defined) based on the way the modern state approached the problem of its interference with the articulation of the public sphere?

These two models clashed again in the 19th century, whereas this new confrontation ended with the primacy of the Lockean model. Just as Locke's

[10] John Locke, *A Letter concerning Toleration*. Latin and English Texts Revised and Edited with Variants and an Introduction by Mario Montuori, The Hague: Martinus Nijhoff, 1963, 22.

definition of the church flowed in the 19th century into Tocqueville's definition of "civil society",[11] Hobbes's definition seems to have found its way into the Hegelian understanding of a *bürgerliche Gesellschaft*.[12] It is this intermediary function, which Hobbes's definition wishes to subjugate and Locke's definition wishes to regulate, that contributes to the meaning of the political in the West.

At the same time that this discussion was taking place in the West, Eastern and Southeastern Europe were entering a phase of establishing nationalized churches. Exactly here we have to briefly consider the Byzantine and Ottoman

[11] As is well known, Tocqueville examined the role of religion in American society, coming to the conclusion that it is absolutely necessary to instill society with ethics. He saw religion more as a regulatory factor within a competitive society and considered the re-organization of society according to ethics as its main role.

[12] Certainly, Hegel's position came about as a thoughtful re-evaluation of the entire heritage of the Enlightenment. Hegel's "civil society", incorporated into the logic of the dialectical triads that define his entire oeuvre, does not comprise the "intervening space" between family and state, but rather their dialectical synthesis: "Civil society is the [stage of] *difference* [Differenz] which intervenes between the family and the state, even if its full development [Ausbildung] occurs later than that of the state; for as *difference*, it presupposes the state, which it must have before it as a self-sufficient entity in order to subsist [bestehen] itself." (G. W. F. Hegel, *Elements of the Philosophy of Right*, edited by Allen W. Wood, translated by H. B. Nisbet, Cambridge: Cambridge University Press, 1991, 220) [emphasis added]. However, in this dialectical "antithesis" between family and state, there is no room for doubt that the latter remains the more powerful pole of the antithesis. The influence of Hobbes on Hegel's work was considerable. Besides, it was no accident that in the *Phenomenology of Spirit*, his first major work, Hegel's attack is turned against "skepticism". Nor is it any accident that in one of his youthful texts, in describing the internal evolution of the church from the early Christian period to the modern age, he claimed that the appearance of a hierarchy within the church signified its transformation into a (spiritual) state! He thus observed: "That the Protestant church, just as much as the Catholic, is a state, although it repudiates the name, is clear from the fact that the church is a contract of each with all and all with each to protect every member of the society in a specific faith and specific religious opinions, and to make arrangements for maintaining these opinions and fortifying every member in this faith. (I said 'in a specific faith' because it would be an article of the civil contract that everyone shall be protected in his own private faith and that no one shall be allowed to suffer injury in his faith, or because of it, by force, the only possible source of such injury.)" (G. W. F. Hegel, *On Christianity: Early Theological Writings*, translated by T. M. Knox, with an introduction, and fragments translated by Richard Kroner, New York: Harper Torchbooks, 1961, 105). This "Lockean-inspired" qualification does not conceal Hegel's substantive identification with Hobbes: The church as a simultaneously Christian and political community causes us to see things double, precisely because it unfolds as a state internally. Hegel, writing at the end of the 18th century, was simply noting the relative failure of Hobbes's vision: The church, instead of submitting to the state as Hobbes would have wished whenever it came into conflict with state interests, compelled the latter to give way and sacrifice its own rights. So much for "the Protestant as well as the Catholic Church" (Ibid., 108).

legacy on the problem of the state-church relations. In my view, there is a crucial theoretical moment in the early Byzantine Empire, which determined the subsequent history of the Orthodox Church. Long before the intellectuals of the Reformation in Western Europe, an imperial historian and personal friend of Emperor Constantine the Great, Eusebius, Bishop of Caesarea, proposed that we have to perceive the church as the church of the emperor as long as the emperor was the real representative of God on earth. The perception of the church as a state church was one of the consequences of the Christian doctrine about the Trinitarian God; namely, through the domination of the Father (that means, of the state) over the other two persons of the Trinity, the Son (that means, of the church) and the Holy Spirit. In fact, Eusebius promoted a model of subjugation of the church to the will of the ruler that was close to the later condemned theological views of Arius, who was also a personal friend of Emperor Constantine. Later on, however, another model was articulated in the Latin West under the influence of Augustine, who was the first to insist on the importance of the person of the Son in Trinitarian relations, parallel to that of the Father. It is about the theological trajectory of the *filioque*, which was hotly debated between East and West in the centuries to come, leading among other things to the "Great Schism" of 1054. In societal terms, this model supported a form of co-domination between church and state.

Usually, the clerics and the intellectuals of the church in order to explain or to interpret its relation to the state used the scheme of *Synallelia* (συναλληλία) or *Symphonia* (συμφωνία), that means of the equivalent co-operation between them. For example, it is well known that they tried to re-interpret the symbol of the double-headed eagle, which was introduced to the Byzantine ideological discourse only after the recapture of Constantinople in 1261. The new flag did not symbolize the willingness of the state to re-conquer all its historical territories in East and West, but the ideal cooperation between the political and ecclesiastical power, a perspective which survived up to nowadays! Although in theory the Patriarchate of Constantinople was the equivalent of political leadership from the

perspective of religious and political equivalence, in practice the Byzantine Empire and its representatives systematically attempted to check both the top of the hieratic pyramid and its broader role in the evolution of the dominant political ideology. The state's interventional role in the development of the Orthodox doctrine and its control over Patriarchal elections are clear indicators of this subordination. To a large degree, the same model developed in the framework of Ottoman politics, although there, of course, the dominance of the Islamic religion differentiated things significantly. The Ottoman conquest was legitimized by the Patriarchate as a necessary expression of Divine Providence, and the Sublime Porte for its part retained the terms of reproduction of the Orthodox clergy's power (e.g., through land ownership, freedom of worship, self-governance), although it considerably delayed its recognition as a complete institution (in spite of the well-known literature on "privileges" to the Patriarchate of Constantinople after 1453). In both cases, however, the subordination of the religious to the political institution was not accomplished without concessions, not only regarding the autonomy of the ecclesiastical institution, but particularly regarding the recognition of its role as a hub of social organization. In this respect, Byzantium is a more classic case: All clashes on the definition of Orthodox doctrine, from Christology to Iconoclasm, revolved around the degree of autonomy enjoyed by society as represented by the church vis-à-vis the state.[13]

From one perspective, especially in the post-Ottoman Balkans, we might argue that the model of subjugation was dominant. The autocephalous ecclesiastical organizations were turned into mechanisms for legitimizing the newly founded states ideologically, and most of them played a decisive role in creating the respective national identities. We might also claim, without reservation, that this model came to dominance through Russia: The early 18th-century reforms of Peter the Great had already presaged that the ruler would be

[13] See Alexander P. Kazhdan and Ann Wharton Epstein, *Change in Byzantine Culture in the Eleventh and Twelfth Centuries*, Berkeley: University of California Press, 1985.

the "head" of the church, vesting the ecclesiastical power in a "Permanent Holy Synod". The purpose of this measure was to weaken the official head of the Russian Church, the Patriarch (the Metropolitan of Moscow), who, as demonstrated in the past, had the capacity to develop into a power figure out of the ruler's control. All this was repeated in the autocephalous Greek Church, as well as in the other Balkan Churches.[14]

The founding of the Greek Church autocephaly in 1833 and its recognition by the Patriarchate of Constantinople in 1850 paved the way for the gradual dissolution of the unity of the Orthodox flock in the Balkans. The recognition of the Serbian and Romanian Orthodox Churches followed, while the founding of the Bulgarian Exarchate was the detonator that ignited ethnic conflicts in the geographic region of Macedonia. Although this political move (i.e., the founding of the autocephalous Greek Church) resulted from the pressure by the English and French Embassies in the newly-established Greek state and was aimed at the weakening of the Russian influence (as the latter was exercised through the Russian-controlled Orthodox hierarchy of the Patriarchate), the case of the Greek Church seems to repeat certain basic features of the Russian ecclesiastical model: Since early 18th century, the reforms of Peter the Great had decreed that the ruler was considered the "head" of the church and distributed ecclesiastical power through an "Permanent Holy Synod".[15]

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[14] Naturally, we should keep in mind that the reforms of Peter the Great had been inspired by a "Western" prototype: the Anglican Church as organized by Henry VIII or its Scandinavian version.

[15] These features were copied precisely in the creation of the autocephalous Greek Church. Therefore, we consider erroneous the interpretation that the clash between Theoklitos Pharmakidis (1784–1860) and Konstantinos Oikonomos ex Oikonomon (1780–1857) on the Greek Church autocephaly was merely an expression of the clash between the pro-Western (Koraist) and the Russophile factions in the newly-constituted Greek state, for it fails to take into consideration Russia's internal split into pro- and anti-Western factions, already visible from the 18th century. Consider, for example, the laudatory views of Pharmakidis about the work of archbishop Feofan Prokopovič (1681–1736), the mastermind of the church reforms under Peter the Great, and in particular about the imposition of the synodical system and the theoretical treatise on the church's submission to the will of the emperor-czar (*Num Christianae religionis summi Imperatores dici possint Episcopi et Archierei et quo sensu?*, St. Petersburg

Although this submission of the church to the necessities of nation-building was an unquestionable fact, it is also true that the church in the Balkans never resigned itself from its role in shaping the public sphere and the creation of what we refer to as "civil society". In other words, although founded in the shadow of Eusebius and Hobbes, the new national Orthodox Churches never forgot that emerging civil societies might employ the secularization processes to threaten their position within the state. The normative perspective of the Lockean definition would be able to consign them both to the sphere of "civil society".

There were essentially many fields on which the church fought the battle to reassert its hegemony in the reconstitution of the private sphere, but here we shall insist on three cases, which I consider as characteristic examples of blurring the lines between the "public" and the "private": The first relates to the "classic" Ottoman period of the *Millets* (i.e., control of the private sphere by a "subjugated church"); the second was its participation in the development of the civil collectivity in the newly-established national states (i.e., control of the public sphere by a "liberated church"); and the last one concerns the *Tanzimat* reform period in the late Ottoman Empire when paradoxically the church tried to assimilate itself to the state (i.e., control of the re-confessionalized *Millet* by a "reformed church").

The Control of the Private Sphere by a "Subjugated Church": The Case of the Legal System

It is well-known that our knowledge of the legal practices of the Patriarchal Courts is fragmentary, for we have no complete and uninterrupted set of metropolitan codices across all metropolises and bishoprics, which could offer us a comprehensive image of events throughout the entire period of Ottoman rule. Concerning the 19th century, however, the century of reforms in the Ottoman

1721). See Theoklitos Pharmakidis, *Ὁ ψευδώνυμος Γερμανός* [The pseudonymous German], Athens: A. Angelidis, 1838, 26ff.

Empire, we may argue that things began to improve, for this climate influenced the practices of many bishoprics. In the first half of the 19th century, many metropolitans chose to systematically record the cases that their metropolises were called upon to judge. Although at first such actions constituted personal initiatives on the part of those who agreed with the spirit of the reforms, after 1860 (the second phase of the *Tanzimat* reforms) they seem to have been a centralized decision by the Patriarchate. The reason was simple: A judiciary system had developed within the *Rum Millet* (namely the Orthodox Christian peoples) in which many cases were originally heard in the bishoprics or metropolises and then re-examined either by a metropolitan court of appeals (in the case of a bishopric) or by the Standing National Mixed Council and the Holy Synod in Constantinople (in the case of a metropolis).[16]

The Orthodox Church in the classical age of the Ottoman Empire experienced a paradox (according to the formalistic way Western Europe perceived the problem of church-state relations, as we have already described it): While the church was a subjugated institution to an infidel ruler, the latter had conceded to it the privilege to control the private sphere of its flock. The church usually operated two levers for accomplishing this aim: through prohibitions on shirttail or blood relationship between potential spouses as well as its refusal to concede divorces easily.

The courts' hesitation in granting divorces was surely a defense of the institution of marriage. However, it was accompanied by a degree of tolerance towards instances of intra-family violence, which were preferably dealt with by imposing a temporary separation (usually referred to in the records as "local

[16] Michail G. Theotokas, *Νομολογία τοῦ Οἰκουμενικοῦ Πατριαρχείου, ἤτοι τῆς Ἱ. Συνόδου καὶ τοῦ Δ.Ε.Μ. Συμβουλίου ἐπὶ τοῦ ἀστικοῦ, κανονικοῦ καὶ δικονομικοῦ δικαίου ἀπὸ τοῦ ἔτους 1800 μέχρι τοῦ 1896* [Jurisprudence of the Ecumenical Patriarchate, namely of the Holy Synod and the Standing National Mixed Council on the Civil, Canonical and Procedural Law from 1800 to 1896], Constantinople: Neologos, 1897, 7–11.

separation" or "separation from the spousal bed"). Though the church was reluctant to grant divorces, it was also keen to avoid the worst possible outcome of extreme cases, i.e. homicide. From the examination of several divorce cases, we may conclude that the "temporary separation" measure rarely resulted in a couple being reunited. The "temporary separation" lasted for at least three months and was often extended to three or four years. However, in many cases of the Central Balkan territories, the separation lasted seven years or more before a solution was granted, although the spouses spent no more than six months together. It is clear, then, that the church used its increased ideological and symbolic power to extend the length of a marriage, but not necessarily the length of cohabitation.

On the other hand, the church attempted to impose itself on the spouses by enforcing certain disciplinary rules. An attempt was made to curtail the transgressions (of the husband, in most cases) through controls imposed by the community – hence the necessity of "sponsors". It is interesting to note that these transgressions were regarded as a failure of the individual to assume his responsibilities, therefore these responsibilities were commuted to objective sponsors who were sound of mind.

But what was the legal framework under which the courts of the Patriarchate heard cases like these? We know that the *Rum Millet*, like the Jewish and Armenian *Millets*, had acquired a status quo in which they managed various aspects of the lives of the members of their communities, known in the Ottoman Empire as "privileges".[17] Today, of course, we know that these privileges were

[17] Although the "privileges" have been studied in connection to the development of nationhood among the Orthodox populations of the Ottoman Empire, as well as in connection to the dissolution of the latter, one aspect that has been neglected is the full extent of their influence on the legal frameworks of both the Empire itself and its Balkan successor states. It is characteristic, however, that neither in Serbia and Romania (where early attempts were made, in 1829 and in 1864, respectively, to translate the Napoleonic *Code Civil*), nor in Bulgaria and Greece (which attempted to borrow from the Roman Law of the Western countries, the former through Italian law and the latter through Bavarian law) was a complete Civil Code of Law instated and put into effect until the beginning or even the middle of the 20th century (after World War II). In Greece, for instance, a Civil Code was only voted into effect in 1945, while

not all granted at once by Mehmed the Conqueror (*Fātiḥ*) to the leaders of the *Millets* in 1453, but were probably codified into a complete corpus only gradually. In this respect, the 19th century may be called a contradictory one: At the same time that these "privileges" were institutionalized through the famous edicts of *Hatt-ı Şerif* (1839) and *Hatt-ı Hümayun* (1856), the Ottoman Empire cast doubt on some of them through its more general reforms. Logically, one cannot demand the right to "modernize" the public sphere without removing the management of private affairs from the control of the traditional religious leadership. This was not within the means, however, of the Ottoman reformers. Although they thrice attempted to limit the degree of the Orthodox *Millet's* autonomy, the limits they placed did not relate to the private sphere (in the three phases of the "privileges" question: 1883/4, 1891, and 1908, with the rise of the Young Turks to power.)

However, there is a very interesting aspect concerning the management of intra-family violence cases, which contributed to this type of hegemony on the part of the Patriarchate. As is widely known, the Ecumenical Patriarchate was defending before the Sublime Porte a judicial system based on the application of the *Hexabiblos* of Konstantinos Armenopoulos, a private Byzantine legislative compilation, the last significant one of its kind before the ultimate fall of Byzantium. It was compiled in 1345 by Armenopoulos, the judge and legislator of Thessaloniki, and was translated during the "post-Byzantine" period into various languages, paraphrased into modern Greek (by Alexios Spanos in Venice, in the famous 1744 edition of Nikiphoros Glykas), and distributed very widely in

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Serbia had been using the Austrian Civil Code since 1844 under pressure from the Habsburg Empire in Belgrade, with many additions and modifications springing from national law. As for Bulgaria, it declared its independence in 1878 and adopted the commercial law of Germany, the penal and procedural law of Russia, and Roman civil law as it was practiced in France and Italy (in the latter, as of 1865). This delay in organizing and applying "native" legal frameworks, and the adoption of legal "palimpsests" from the West, must not be understood as a mere result of their inability to organize national civil institutions and of the overall economic "underdevelopment" of the region. Rather, it is also a result of the definitive role played by each country's ecclesiastical factors in the formation of national identities. We may even make the claim that the continuation of the church's interventional role in matters of civil law (especially in family law) is directly proportional to the legitimizing role it assumed towards the newly-formed nation-states.

Western and Central Europe, Georgia, Russia, the Danubian Principalities, Asia Minor, and the entire Balkan Peninsula.[18] However Armenopoulos's collection was decisively different from other correspondent collections of the Late Byzantine period because it included only secular laws of the old Byzantine emperors, namely without any reference to the Holy Canons.

But why then the Patriarchate decided at the middle of the 18th century to adopt Armenopoulos's collection as its official one while at the same time marginalized old legal collections like the *Syntagma* of Matthaios Vlastaris or the *Nomocanon* of Manouil Malaxos? This happened obviously because its dominant elite chose to intervene in the formation of the private sphere drastically, and not only in the aspects concerning the family and inheritance law.

Yet, in my opinion, Armenopoulos's *Hexabiblos* had a multiple usefulness. Usually, the legalists of the 19th century accused the Patriarchate because it promoted a very simplified legal collection instead of using the original multivolume collection of *Basilica*. But what I claim is that the Patriarchate preferred to use the *Hexabiblos* exactly because of its simplified and minimal/elliptical character. It is interesting, for example, that the text of Armenopoulos does not mention violence against the wife as a ground to sue the husband for divorce.[19] The case of a husband "plotting against" his wife's life was covered, of course, but the use of violence did not in itself necessarily indicate a murder plot. On the other hand, on a practical level the reasons for which divorces were granted by the ecclesiastical courts were far more numerous than those mentioned by Armenopoulos. We find many examples of what seems to be divorces by common consent, even though such divorces are theoretically forbidden by ecclesiastical practice. The reason for this was very persuasive: If

[18] In the latter two areas, it was used by the ecclesiastical and mixed courts of the metropolises of the Patriarchate of Constantinople from the 18th century, especially the paraphrased version of Alexios Spanos, which gradually succeeded in supplanting the *Nomokanon* of Manouil Malaxos (a legislative compilation of the 16th century, possibly between 1560 and 1563).

[19] Konstantinos Armenopoulos, *Πρόχειρον Νόμων ἢ Ἑξάβιβλος* [Handbook of Laws or Hexabiblos], ed. Konstantinos Pitsakis, Athens: Dodoni, 1971, 274–275.

the divorce applicants were unsatisfied by a decision of the ecclesiastical courts, they could appeal to an Islamic court, an option which carried the possibility of conversion to Islam under pressure from a Muslim judge (*qāḍī*).[20]

At this point, there are two facts are worth noting. The first is that the parties to a suit appearing before an ecclesiastical court often tried to use this conflict to their advantage. In other words, rather than submit to the strict rules for the granting of divorce, they could develop strategies to exert pressure on the representatives of the church. The second is that the broad range of interpretations employed by the courts in adjudicating matters of intra-family violence was usually justified on the grounds of protecting local customs, which ecclesiastical jurisprudence was obliged to respect.

The Control of the Public Sphere by a "Liberated Church": The Case of the Para-ecclesiastical Organizations

As for the second field, that of developing a civil collectivity, it would be worthwhile to recall the efforts of the Patriarchate to rein in the dozens of societies formed in the late 19th century throughout the empire, along with the creation of para-ecclesiastical organizations in all the newly formed states (the case of Apostolos Makrakis, 1831–1905, being the most notable Greek example), which played a very important role in the restructuring of the ecclesiastical hierarchy.[21]

In particular, we must closely consider the second case because it concerns the function of all these organizations, which were criticized (among others, by the Neo-Orthodox movement in Greece) as being the result of Protestant

[20] Dimitrios Gkinis, *Οἱ λόγοι διαζυγίου ἐπὶ Τουρκοκρατίας* [The Reasons for Divorce during the Ottoman Domination], Thessaloniki 1960, 242–244.

[21] In contrast to the Neo-Orthodox critique against these organizations as being by definition Protestant, we should note that they never questioned the role of the clergy as such, as a true "Protestant" group would normally do. Rather, they functioned more as sources from which the ecclesiastical hierarchy drew its staff than as nuclei of questioning the intermediary function of the clergy. See Dimitris Stamatopoulos, "The 'Return' of Religious and Historiographic Discourse: Church and Civil Society in Southeastern Europe (19th–20th Centuries)", *Journal for the Study of Religions and Ideologies* 8 (2004) 64–75.

influences upon Orthodoxy. In fact, especially in this case we can discern a major means of controlling the "intermediary" social domain. It would be interesting to see what the criteria of distinction are between a club or society and a para-ecclesiastical organization with philanthropic aims. What are the limits of, and the requirements for, the development of civil morality within these organizations?

The criticism employed by the Neo-Orthodox viewpoint is precisely that their corporate organization, which is derived from the domain of social autonomy set up through a civil legal framework, cancels the pastoral relationship with the bishop. The Greek theologian and philosopher Christos Yannaras, for example, considers these organizations as extra- rather than para-ecclesiastical.[22] Their existence calls into question and provides a substitute for the intermediary role of the clergy in organizing the relations between God and the faithful. The Protestant-inspired diffusion of the priesthood to the faithful, however, can only result in the organization of the social domain with a normative model (discipline, work ethic, etc.). But does this argument hold?

The disorganization of the role of the clergy as an intermediary between God and the faithful is a necessary condition for ecclesiastical discourse as civil morality to reign in the intermediate social domain. This enables the ecclesiastical to intercede between the state and the citizens, and in this process the official church not only substitutes, but also contributes enormously.

In my opinion, it is not the dominance of the Protestant model within Orthodoxy that is to be preferred, but on the contrary a re-organization of the sovereign discourse of the church as preferential ally of the state within the borrowed version of the Protestant example. The element of corporate organization is thus borrowed in order to cater to executive personnel as a reservoir of the faithful, while simultaneously in no instance calling into question

[22] Christos Yannaras, *Ὀρθοδοξία καὶ Δύση στὴ νεώτερη Ἑλλάδα* [Orthodoxy and the West in Modern Greece], Athens: Domos, 1992, 348–405.

the role of the clergy as intermediary. This role is not abandoned exactly because the church cannot abandon the process of regulating society.

This is the reason why the church naturally does not place itself in the civil society – something that Neo-Orthodox thinkers usually suppress. While it permits the church to participate in the formation of civil morality, at the same time it exclusively controls the domain of the religious market. If in fact this movement was a product of a Protestant ethic, it would have been receptive to multi-fragmentation and individualization, and above all it would abandon its exclusive position in the market of religious conscience.[23] However, for such a basic condition the critical role of the priesthood must be called into question.

The relationship between these para-ecclesiastical organizations and the official church, far from being a direct juxtaposition, can be characterized as follows: For the entire 20th century, there was in reality an exchange of powerful executives between these organizations and the clergy, without ever challenging the intermediary role of the priesthood between the faithful and God. The existence of these organizations was enough to make the area of civil morality autonomous.

The Control of the Re-confessionalized *Millet* by a "Reformed Church": The Case of the *Tanzimat* Reforms

In any event, for there to exist a process of mutual feedback between the ecclesiastical institution and the para-ecclesiastical organization, and for the consequent penetration of the church into civil society, there must first be a similarity between the ecclesiastical institution and the civil one. This process occurred within the framework of the Ottoman Empire, having as its basis the organization of the *Millet*, and reached its height in the mid-19th century with the *Tanzimat* reforms. To be more precise: It occurred within those provisions of the

[23] For this important issue, see the works by Rodney Stark and William S. Bainbridge, *The Future of Religion: Secularization, Revival and Cult Formation*, Berkeley: University of California Press, 1985, and *A Theory of Religion*, New York: Peter Lang, 1987.

imperial decree of 1856, which foresaw the re-organization of the empire's Orthodox *Millet* (and others as well), by introducing into its administration a lay element through the convocation of mixed (clergy-laity) *Millet* Assemblies. The constitutional text, which was derived from the Great Mixed Assembly of the Orthodox *Millet* in Istanbul between 1858 and 1860, namely the *General Regulations*, determined the history of the Patriarchate up to the end of the Ottoman Empire (1923). However, this move provoked long-lasting opposition within the Patriarchate among those supporting the reforms and those (chiefly clerics) who supported the primacy of the Orthodox clergy on the basis of the priority of the Holy Laws in opposition to the new "constitution" that the *Tanzimat* imposed.

From this confrontation, there arose as a commonplace in the argumentation of various "organic intellectuals" on both sides the following scheme: The Patriarchate was likened to a space in which, apart from spiritual and political "rights", the Patriarch enjoyed the position of not only the highest spiritual, but also political leader (and here there unfolds a new confrontation: constitutional vs. absolute); and the two bodies convened in the Ecumenical Patriarchate, namely the Holy Synod and the Standing National Mixed Council, enjoyed a position corresponding to the representative bodies in the Orthodox *Millet* – the small "parliaments" – while, finally, the faithful and the subjects of the Ottoman realm constituted the body from which the above-named institutional organs drew their power.

It is obvious that the representation of the Patriarchate as a civil body arose within the framework of increased expectations emerging from the declaration of *Hatt-ı Hümayun*, but here, two details should be noted: First, that it owes a great deal to the discussion conducted during preceding decades in relation to the autocephalous Greek Church; and second, that it created a new dynamic, which went beyond this: It preceded by four years the political change of 1864 in Greece, and by twelve years the concession of the 1876 constitution by then Grand Vizier

Midhad Paşa (under Sultan Murat V). In other words, it was connected to the hope for reforms that would establish a type of parliamentary representation without rescinding the regime's imperial character.

The likening of the church to the state in the Ottoman Empire and in the Protestant Reformation, both cases involving a section of the clergy, the repetition of this pattern and its formation as representation catalytically shaped the relations of religion to the state. Hence, it was typical that, whenever necessary, the representatives of the clergy supported the authenticity of the Holy Canons alongside the constitutionality of the *General Regulations*, which, after all, needed more to appear adaptable to theories of nation-state. When the Holy Canons became an object of invocation, their legislative element was not theological authenticity, but the fact that they represented the specific version of the Christian religion, which was best suited to the nation-state model of constitutional monarchy. In contrast, the *General Regulations* as the most important expression of the reform ("secularization") movement in the Orthodox *Millet* should have been invoked only to the degree that they did not provoke imbalances in the model of the "innate" constitutionality of Orthodoxy.[24]

It seems then as if the reform in the Orthodox *Millet*, considered as its process of secularization, joined the state and the church in a relation not of classification, but of reflection and mirage. The state did not classify religion – we could further argue that it actually undermined this traditional ruling force. On the other hand, however, what is also of interest is the religious attempt to propagate within the political field through the adoption of state models. In order to settle the issues of social and political hegemony within the *Millet*, the representatives of the juxtaposed wing invoked a superior ideology – a symbolic

[24] See Dimitrios Stamatopoulos, "Η Εκκλησία ως πολιτεία. Αναπαραστάσεις του Ορθόδοξου Μιλλέτ και το μοντέλο της συνταγματικής μοναρχίας (δεύτερο μισό 19ου αι.)", [Church as State: Representations of the Orthodox *Millet* and the Model of Constitutional Monarchy (Second Half of the 19th c.], *Μνήμων* 23 (2002) 40–76.

reality –, namely the organic relationship between Orthodoxy and the constitutional model, precisely to legalize the defense of their proportional interests. This invocation, however, would contribute to the blurring of the boundaries between the two camps – the religious and the political –, one of the most important peculiarities in the Balkan region, bequeathed to the twentieth century by the nineteenth.

This return to Augustine, however, namely the likening of the religious and the political, one could call common to both the Roman Catholic and Orthodox Church at the end of the 19th century – a return that did not simply recall the distinction between the City of God and the City of Man,[25] but organized the latter according to the adopted, inviolable principles of the former. Did this return have the wider aim of settling inter-communal clashes? In my opinion, the problem is connected to the emergence of that which we would call "civil society".

Does an "Orthodox" Model of State-Civil Society Exist? The Annexation Model

The critical issue, then, is the fact that the church in the East joined the state, aiming to reproduce the ideological and political hegemony of the latter. It may well be that the Russian "synodal" system and the example of the Anglican Church served as models for the re-organization of its administrative functions. However, the Orthodox Church had developed a model for politico-religious relations within the framework of the Ottoman Empire, and, as already mentioned, much earlier within the Byzantine Empire, which proved to be particularly resilient across time. We might argue that if the Roman Catholic Church historically strove for independence from the modern state, unwilling to submit itself to something that emerged only after many centuries of its own absolute supremacy, and if the Protestant Church contributed to the emergence and re-

[25] Augustine, *De civitate Dei*, XIV.28; XV.1 & 21 [Bibliotheca Scriptorum Graecorum et Romanorum Teubneriana] (Leipzig: Teubner, 1928–1929).

organization of civil society, thus aligning itself with the will of the state, which in turn defended its interests, then the Orthodox Church annexed itself to the state, to each state in turn, whether imperial or national. Although theoretically the nationalized Orthodox Churches of Eastern and Southeastern Europe followed the Protestant model of subordination and contributed to the processes of discipline and the development of a bourgeois ethos,[26] they nonetheless understood themselves to be in constant negotiation with the state, with a spirit of "independence", which more closely resembles that of the Roman Catholic Church.[27] Although these churches, being subordinate to the state, were incorporated into the mentality of public administration (and therefore into the logic of their members being salaried employees), they also remained owners, especially of land, as though they belonged to the Hegelian *bürgerliche Gesellschaft*. In fact, the nationalized Orthodox Churches claimed their right to negotiate with the state, even as they were numbered among its components.

This is the specific difference with the Roman Catholic and Protestant models, and the essential meaning of what we call the "annexation" of the church to the state. But this is not a mere question of degree, or of balance between the two extremes of a pendulum (in our case, the Roman Catholic and the Protestant models). In fact, the process of this constant negotiation, accompanied by participation in both the realm of "civil society" and "political society" (i.e., that

[26] Indeed, this is the point on which Michel Foucault rests his criticism of the way Hegel understands the term *bürgerliche Gesellschaft*. On this point, see Michael Hardt, "The Withering of Civil Society", in Eleanor Kaufman and Kevin Jon Heller (eds.), *Deleuze and Guattari: New Mappings in Politics, Philosophy and Culture,* Minneapolis, MN: University of Minnesota Press 1996, 23–39.

[27] There are many historical examples, especially in the 19th century, proving that the model of centralized authority employed by Rome was particularly appealing to the Patriarchs of the Orthodox East, especially when their rule was threatened by the institution of public participation. Consider, for example, the clashes which followed the voting of the *General Regulations* (on this, see Dimitris Stamatopoulos, *Μεταρρύθμιση και Εκκοσμίκευση: Προς μια ανασύνθεση της ιστορίας του Οικουμενικού Πατριαρχείου τον 19ο αιώνα* [Reform and Secularization: Towards a Reconstruction of the History of the Ecumenical Patriarchate in the 19th century], Athens: Alexandria, 2003), as well as the relations of Patriarch Joachim III (1878–1884 and 1901–1912) with Rome, who was a model of the centralizing type, just before his second ascent to the Patriarchal throne.

of the state), resulted in the shake-up of the terms "public" and "private", which modern politics goes to such pains to differentiate. But in order for this shake-up to occur, the imperial model of the Orthodox Church became a necessary prerequisite.

As we have already mentioned, the Orthodox Church had developed a model for politico-religious relations within the framework of the Byzantine and later the Ottoman Empire, which proved particularly resilient. In the Ottoman Empire especially, the clergy assumed a powerful (political) intermediary role between the Sultan and his Orthodox subjects, which would reinforce its (theological) legitimacy as an intermediary between God and humans[28]. This dual relationship of mediation made the clergy so powerful socially and the religious criterion so dominant ideologically, that all the national movements, which arose during the 19th century and gradually dissolved the unity of the Ottoman Empire, were forced to take them into serious consideration.

It was precisely this revival of the dual intermediary function within the framework of the nation-state that allowed the church to intervene decisively in

[28] The work of Thomas Aquinas significantly influenced that of Gennadios II (Scholarios), the first patriarch after the fall of Constantinople in 1453. See, for instance, Scholarios's summaries of two works by Aquinas, the treatise against idolaters and the first part of the theological treatise. See *Oeuvres complètes de Gennade Scholarios,* ed. Louis Petit, Xénophon A. Sidéridès and Martin Jugie, vols. I-VIII, Paris: Maison de la bonne presse, 1928–1936. Thus, Scholarios would say: "This book is a summary of two books […] The pains of our summary resulted from our powerful love for these books […]" (Τουτὶ τὸ βιβλίον δυοῖν βιβλίων ἐστὶν ἐπιτομή […] Ἐπῆλθε δὲ ἡμῖν ὁ περὶ τὴν τοιαύτην ἐπιτομὴν πόνος διὰ τὸν σφοδρὸν ἐν ἡμῖν τῶν βιβλίων ἔρωτα […]) (vol. V, 1). Aquinas's influence can be seen not only in Scholarios's defense of Aristotelianism, but also in his reworking of the concept of "divine providence", which was for Aquinas directly implicated with the critical distancing from the doctrine of Augustinian "absolute predestination" (Ibid., 362). If divine providence does not preclude "self-determination" (Ibid., 162, LXXIII), then the intermediary/mediating role of the clergy, who undertakes the project of guiding the faithful, is legitimized. Aquinas would counsel that "the immobility/unmoving nature of divine providence does not cancel the usefulness of prayer" (ὅτι τὸ ἀκίνητον τῆς θείας προνοίας οὐκ ἀναιρεῖ τὸ χρήσιμον τῆς εὐχῆς) (Ibid., 182), while Scholarios would reiterate: "just as divine providence and divine predestination do not cancel the usefulness of prayer" (vol. I, 453). By contrast, the Lutherans and Calvinists would undermine the legitimacy of the clergy's mediating role by returning to the Augustinian theology of ancient Christianity.

the formation of the private sphere.[29] But how would the church manage to avoid the consequences of an emerging "civil society", or rather the empowerment of modernization, which would sooner or later inevitably question its role in the internal affairs of the state? This became possible by treating the private sphere as an extension of the public one and as a field reflecting the will of the ruler; in other words, treating the family as a state and the constitution of collectivities as an *internal* redistribution of power relations. Just as the church, however "free and voluntarily organized", found safe refuge in the arms of the ruler, it treated the collectivities of the private sphere and those of the intermediary one in the same way.

After offering a historical narrative of church-state relations in the Balkans, we now return to the initial question of secularization, in an effort to pose a theoretical proposal about the particular form that this assumed in Southeastern Europe. In my view, what needs to be explained is why and how the Orthodox Churches so easily managed to shake up the boundaries between "public" and "private". My answer is that they succeeded because they had a particular means of attaching themselves to each state, whether imperial or national: They neither entered into open conflict with the state (as was usually the case with the Roman Catholic Church), nor did they withdraw to the private sphere (as was usually the case with the Protestant Churches). While they were transformed into components of the state, they were simultaneously engaged in continuous negotiation of their position *within* the state. More importantly, it was not the ruler who afforded them this possibility of negotiation, but the control of the private realm, which they had with such great effort succeeded in imposing and reproducing over the long term.

[29] To draw another comparison with the Roman Catholic and Protestant Churches, we might argue that the former never abandoned the privilege of mediating between God and humans, but its clash with the imperial institution risked (without entirely negating) its power to represent the citizen as a believer. By contrast, the Protestants, by disseminating priesthood throughout their flock (i.e., by terminating the intermediary function of the clergy), cleared the path for (and ultimately flourished in) non-totalitarian environments. See Charles Tilly, *European Revolutions, 1492–1992*, Oxford/Cambridge, MA: Blackwell, 1993.

Offering a historical survey of the two paths followed by the secularization process in the West, which in our opinion go back to two primary models, that of Hobbes (the church is subordinate to the state) and that of Locke (the church is a free and voluntary organized community), I tried to show that the nationalized churches of Southeastern Europe in the 19th century followed the former path, namely that of subordination. However, the political traditions of the Ecumenical Patriarchate, from which these nationalized churches emerged, allowed them to hover between the two models. While they themselves formed part of the state mechanism, they were at the same time in continuous negotiation with the state, as if they (also) formed part of civil society.

Conveying my own position in the discussion between doubters and supporters of the secularization theory, I would argue that indeed, in those countries we are dealing with here, we had the establishment of a kind of a "religious monopoly". But this monopoly hardly meant the retreat of religious activity, as theorists of the former category suppose. This is because the Orthodox Churches, although they formed components of the state, at one and the same time confronted the state in a detached fashion, as if they represented in an inclusive way an intermediary space in civil society. But for the same reason – namely because they shook up the boundaries between "public" and "private" –, they could not permit a politics of radicalization among their flock, as the second group of theorists has observed, for example, in the case of the Roman Catholic Church in Latin America. Southeastern Europe never knew a radical anticlerical movement, precisely because the clergy always managed to reproduce its power as the *par excellence* intermediary actor. To put it otherwise: *For the Orthodox Church, there is no intermediary space between the private sphere and the state, precisely because it would like to occupy this space itself.*

If our initial observation holds true –namely, the process of delimiting church-state relations in the Enlightenment and the search for what the church has contributed to the rise of the concept as well as the reality of civil society in the

West –, then can the disturbance of the boundaries between public and private that the church achieves also be a fundamental rule for the formation of civil society in the East?[30] The year 1905 – or even, 1789 – are very recent moments in European history for the establishment of a type of regularity in the distinction between the "political" and the "religious". What I am endeavoring here is to precisely achieve the comparison between the process of evolution of the church in Western and Eastern Europe on the basis of a (single) common denominator. This is because the open question of "what is the church" offered a possibility for the expression of two alternative views about "what is civil society": In Locke and Tocqueville, it was the intermediary sphere, while in Hegel, Marx and Carl Schmitt, it was the political mediation. This is not a question that divides Western from Eastern Europe; on the contrary, it unites them.

[30] Here a reference to Hannah Arendt's critique of Hegel is useful: Arendt proposed a way of using the concept of "society" as a field of mediation between the public and private, between political life and the family; "society" as the realm of mediations, where private interests, activities, and institutions presuppose public roles, while public institutions assume private functions. Thus, according to Arendt, institutions like the guilds of Hegel and the police neither stabilize nor settle the differentiation between the public and private; rather, they do away with the distinction between the two, while simultaneously threatening the autonomy of both (Hannah Arendt, *The Human Condition*, 2nd edition, Chicago: The University of Chicago Press 1958, 22–78). For Arendt, both spaces, public and private, are in a continuous state of conflict and differentiation, and the greatest danger is the possible breakdown of the concept of the "citizen" by the adoption of a model of "personal happiness" and, above all, by the predominance of the values of the private realm, the "household" (e.g., despotic forms of authority, inequality, patriarchy) in the realm of the "polis" – the formation of the nation-state falls within this category. Arendt's assault on the "social" (that is, against the Marxist critique) is done from the viewpoint of a defense of privacy. Exactly this has the cost of her not seeing the importance of the processes of mediation. However, it encourages us not to consider precisely what happened in connection with the church in the East as an aberration from a Western rule that the Weberian demystification of the world (*Entzauberung der Welt*) in the modern age presumably formulated.

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